IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

L.R. MCCOY & COMPANY, INC.	:	CIVIL ACTION
	:	NO. 10-1301
v.	:	
	:	
DAVID S. BEILER, et al.	:	

ORDER

AND NOW, this 16th day of March, 2011, in consideration of defendants' motion to dismiss and plaintiff's response in opposition, it is ORDERED that defendants' motion is GRANTED IN PART and DENIED IN PART as follows:

1) Defendants' motion to dismiss plaintiff's fraud claim is GRANTED. Plaintiff's fraud claim is DISMISSED and plaintiff is GRANTED leave to amend within ten (10) days from the date of this order;

2) Defendants' motion to dismiss plaintiff's conversion claim is DENIED;

3) Defendants' motion to dismiss the conversion, book account and account stated claims against Beiler and Eberly in their personal capacities is DENIED;

4) Defendants' motion to dismiss the unjust enrichment claim against Beiler and Eberly is GRANTED insofar as plaintiff seeks to recover from Beiler and Eberly in their personal capacities the amount by which Millcreek and/or Keystone were unjustly enriched;

5) Defendants' motion to dismiss plaintiff's demand of joint and several liability for the unjust enrichment claims against Millcreek and Keystone is GRANTED;

6) Defendants' motion to strike plaintiff's demand for attorney's fees from counts IV, V, VI, VII, VIII, and IX is DENIED;

7) Defendants' motion to dismiss plaintiff's demand for interest at the rate specified in the contracts is DENIED with respect to counts I, II, VI, VII, VIII and IX and GRANTED with respect to counts IV and V;

8) Defendants' motion to dismiss plaintiff's demand for punitive damages from count IV is DENIED.

/s/ THOMAS N. O'NEILL, JR.
THOMAS N. O'NEILL, JR., J.